



Reprinted  
February 24, 2009

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## HOUSE BILL No. 1639

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DIGEST OF HB 1639 (Updated February 23, 2009 4:46 pm - DI 96)

**Citations Affected:** IC 9-21.

**Synopsis:** Move over or slow down for utility service vehicles. Provides that a person who operates a motor vehicle approaching a stationary utility service vehicle displaying alternately flashing amber lights must yield the right of way by making a lane change or reducing the motor vehicle's speed on certain highways if two warning signs, and in certain circumstances at least one flagman, are at the worksite. Provides that the failure to move over or slow down when approaching a stationary utility service vehicle under these circumstances is a Class A infraction that may also result in the loss of driving privileges.

**Effective:** July 1, 2009.

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**Clements, Duncan, VanDenburgh,  
Austin**

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January 16, 2009, read first time and referred to Committee on Roads and Transportation.  
February 19, 2009, reported — Do Pass.  
February 23, 2009, read second time, amended, ordered engrossed.

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HB 1639—LS 7466/DI 44+



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February 24, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1639

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A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 9-21-8-35 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 35. (a) Upon the  
3 immediate approach of an authorized emergency vehicle, when the  
4 person who drives the authorized emergency vehicle is giving audible  
5 signal by siren or displaying alternately flashing red, red and white, or  
6 red and blue lights, a person who drives another vehicle shall do the  
7 following unless otherwise directed by a law enforcement officer:  
8 (1) Yield the right-of-way.  
9 (2) Immediately drive to a position parallel to and as close as  
10 possible to the right-hand edge or curb of the highway clear of any  
11 intersection.  
12 (3) Stop and remain in the position until the authorized  
13 emergency vehicle has passed.  
14 (b) Upon approaching a stationary authorized emergency vehicle,  
15 when the authorized emergency vehicle is giving a signal by displaying  
16 alternately flashing red, red and white, or red and blue lights, a person  
17 who drives an approaching vehicle shall:

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(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(c) Upon approaching a stationary recovery vehicle or a stationary highway maintenance vehicle, when the vehicle is giving a signal by displaying alternately flashing amber lights, a person who drives an approaching vehicle shall:

(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the recovery vehicle or highway maintenance vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

**(d) Upon approaching a stationary utility service vehicle (as defined in IC 8-1-8.3-5) when the utility service vehicle is giving a signal by displaying alternately flashing amber lights, a person who drives an approaching vehicle shall:**

**(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the utility service vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or**

**(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe;**

**as long as there are two warning signs, one (1) of which is not less than three hundred (300) feet in front of and one (1) of which is not less than three hundred (300) feet behind the utility service vehicle, and the utility service vehicle is off the traveled portion of the highway. If it is not practicable for the utility service vehicle to be off the traveled portion of the highway, there must be a minimum of one (1) flagman for traffic control at the worksite, and there**

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1 **must be two warning signs not less than three hundred (300) feet**  
 2 **in front of and one (1) of which is not less than three hundred (300)**  
 3 **feet behind the utility service vehicle for the person who drives an**  
 4 **approaching vehicle to be required to proceed in conformance with**  
 5 **subdivisions (1) and (2).**

6 ~~(d)~~ (e) This section does not operate to relieve the person who drives  
 7 an authorized emergency vehicle, a recovery vehicle, **a utility service**  
 8 **vehicle**, or a highway maintenance vehicle from the duty to operate the  
 9 vehicle with due regard for the safety of all persons using the highway.

10 SECTION 2. IC 9-21-8-54 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 54. (a) A person who  
 12 violates section 35(b), ~~or~~ section 35(c), **or section 35 (d)** of this  
 13 chapter commits a Class A infraction.

14 (b) If a violation of section 35(b) of this chapter results in damage  
 15 to the property of another person, in addition to any other penalty  
 16 imposed, the court shall recommend that the person's driving privileges  
 17 be suspended for a fixed period of not less than ninety (90) days and  
 18 not more than one (1) year.

19 (c) If a violation of section 35(c) **or section 35(d)** of this chapter  
 20 results in damage to the property of another person of at least two  
 21 hundred fifty dollars (\$250), in addition to any other penalty imposed,  
 22 the court shall recommend that the person's driving privileges be  
 23 suspended for a fixed period of not less than ninety (90) days and not  
 24 more than one (1) year.

25 (d) If a violation of section 35(b), ~~or~~ section 35(c), **or section 35(d)**  
 26 of this chapter results in injury to another person, in addition to any  
 27 other penalty imposed, the court shall recommend that the person's  
 28 driving privileges be suspended for a fixed period of not less than one  
 29 hundred eighty (180) days and not more than two (2) years.

30 (e) If a violation of section 35(b), ~~or~~ section 35(c), **or section 35(d)**  
 31 of this chapter results in the death of another person, in addition to any  
 32 other penalty imposed, the court shall recommend that the person's  
 33 driving privileges be suspended for two (2) years.

34 (f) The bureau shall, upon receiving a record of a judgment entered  
 35 against a person under this section:

36 (1) suspend the person's driving privileges for a mandatory  
 37 period; or

38 (2) extend the period of an existing suspension for a fixed period;  
 39 of not less than ninety (90) days and not more than two (2) years. The  
 40 bureau shall fix this period in accordance with the recommendation of  
 41 the court that entered the judgment.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1639, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

AUSTIN, Chair

Committee Vote: yeas 10, nays 0.

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1639 be amended to read as follows:

Page 2, line 10, after "vehicle" delete ", a stationary".

Page 2, line 11, delete "utility service vehicle (as defined in IC 8-1-8.3-5),".

Page 2, line 17, delete ", utility service vehicle,".

Page 2, between lines 24 and 25, begin a new paragraph and insert:

**"(d) Upon approaching a stationary utility service vehicle (as defined in IC 8-1-8.3-5) when the utility service vehicle is giving a signal by displaying alternately flashing amber lights, a person who drives an approaching vehicle shall:**

**(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the utility service vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or**

**(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe;**

**as long as there are two warning signs, one (1) of which is not less than three hundred (300) feet in front of and one (1) of which is not less than three hundred (300) feet behind the utility service vehicle, and the utility service vehicle is off the traveled portion of the highway. If it is not practicable for the utility service vehicle to be off the traveled portion of the highway, there must be a minimum of one (1) flagman for traffic control at the worksite, and there must be two warning signs not less than three hundred (300) feet in front of and one (1) of which is not less than three hundred (300)**

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**feet behind the utility service vehicle for the person who drives an approaching vehicle to be required to proceed in conformance with subdivisions (1) and (2)."**

Page 2, line 25, strike "(d)" and insert "(e)".

Page 2, after line 28, begin a new paragraph and insert:

"SECTION 2. IC 9-21-8-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 54. (a) A person who violates section 35(b), ~~or~~ section 35(c), **or section 35 (d)** of this chapter commits a Class A infraction.

(b) If a violation of section 35(b) of this chapter results in damage to the property of another person, in addition to any other penalty imposed, the court shall recommend that the person's driving privileges be suspended for a fixed period of not less than ninety (90) days and not more than one (1) year.

(c) If a violation of section 35(c) **or section 35(d)** of this chapter results in damage to the property of another person of at least two hundred fifty dollars (\$250), in addition to any other penalty imposed, the court shall recommend that the person's driving privileges be suspended for a fixed period of not less than ninety (90) days and not more than one (1) year.

(d) If a violation of section 35(b), ~~or~~ section 35(c), **or section 35(d)** of this chapter results in injury to another person, in addition to any other penalty imposed, the court shall recommend that the person's driving privileges be suspended for a fixed period of not less than one hundred eighty (180) days and not more than two (2) years.

(e) If a violation of section 35(b), ~~or~~ section 35(c), **or section 35(d)** of this chapter results in the death of another person, in addition to any other penalty imposed, the court shall recommend that the person's driving privileges be suspended for two (2) years.

(f) The bureau shall, upon receiving a record of a judgment entered against a person under this section:

(1) suspend the person's driving privileges for a mandatory period; or

(2) extend the period of an existing suspension for a fixed period; of not less than ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the judgment."

(Reference is to HB 1639 as printed February 20, 2009.)

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